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Attorneys for Defendants N. Grannis and R. Pimental

**UNITED STATES DISTRICT COURT, NORTHERN DISTRICT
SAN FRANCISCO DIVISION**

11 | MICHAEL PAUL WILLIAMS,

Case No. C07- 5574 MMC (PR)

Plaintiff,

10

14 || SCOTT KERNAN, ET AL.

Defendants.

**ANSWER TO THE COMPLAINT:
REQUEST FOR JURY TRIAL AND
COURT REPORTER**

17 COME NOW Defendants, N. Grannis and R. Pimental, and in response to the
18 Complaint on file herein admit, deny, and allege as follows:

19 1. Answering paragraph one of the complaint, answering Defendants admit plaintiff
20 is incarcerated at Pelican Bay State Prison and that he underwent surgery for his
21 knee. As to the remainder of the paragraph, defendants have no information or
22 belief upon the facts alleged in said paragraph sufficient to enable defendants to
23 answer the allegations and, on that ground deny each and every remaining
24 allegation of said paragraph of the complaint.

27 3. Answering paragraph three of the complaint, answering Defendants admit the
28 allegations in said paragraph of the complaint.

- 1 4. Answering paragraph four of the complaint, , answering Defendants admit the
- 2 allegations in said paragraph of the complaint.
- 3 5. Answering paragraph five of the complaint, , answering Defendants admit the
- 4 that Robert Horel is the Warden of Pelican Bay State Prison, Defendants have no
- 5 information or belief upon the facts alleged in the remainder of said paragraph to
- 6 enable Defendants to answer the allegations and, on that ground deny each and
- 7 every remaining allegation of said paragraph of the complaint.
- 8 6. Answering paragraph six of the complaint, answering Defendants admit the
- 9 that C. Scavetta is the Associate Warden of Pelican Bay State Prison, Defendants
- 10 have no information or belief upon the facts alleged in the remainder of said
- 11 paragraph to enable Defendants to answer the allegations and, on that ground deny
- 12 each and every remaining allegation of said paragraph of the complaint.
- 13 7. Answering paragraph seven of the complaint, answering Defendants admit the
- 14 that J. Flowers is a registered nurse at Pelican Bay State Prison, Defendants
- 15 have no information or belief upon the facts alleged in the remainder of said
- 16 paragraph to enable Defendants to answer the allegations and, on that ground deny
- 17 each and every remaining allegation of said paragraph of the complaint.
- 18 8. Answering paragraph eight of the complaint, answering Defendants admit that
- 19 Sue Risenhoover is a facility nurse practitioner at Pelican Bay State Prison,
- 20 Defendants have no information or belief upon the facts alleged in the remainder
- 21 of said paragraph to enable Defendants to answer the allegations and, on that
- 22 ground deny each and every remaining allegation of said paragraph of the
- 23 complaint.
- 24 9. Answering paragraph nine of the complaint, answering Defendants admit that
- 25 Michael Sayre is a medical doctor and Chief Medical Officer at Pelican Bay State
- 26 Prison, Defendants have no information or belief upon the facts alleged in the
- 27 remainder of said paragraph to enable Defendants to answer the allegations and,
- 28 on that ground deny each and every remaining allegation of said paragraph of the

1 || complaint.

- 2 10. Answering paragraph ten of the complaint, answering Defendants admit that
3 Joseph Kravitz is the Health Program Co-ordinator at Pelican Bay State,
4 Defendants have no information or belief upon the facts alleged in the remainder
5 of said paragraph to enable Defendants to answer the allegations and, on that
6 ground deny each and every remaining allegation of said paragraph of the
7 complaint.

8 11. Answering paragraph eleven of the complaint, answering Defendants admit
9 that Maureen McLean is the Health Care Manager at Pelican Bay State Prison,
10 Defendants deny the remaining allegations of the paragraph.

11 12. Answering paragraph twelve of the complaint, answering Defendants admit that
12 N. Grannis is the Chief of Inmate Appeals (IAB) for the California Department of
13 Corrections and Rehabilitation. Defendants admit that inmate appeals (602) that
14 are accepted for review at the third level are reviewed by the IAB.

15 13. Answering paragraph thirteen of the complaint, answering Defendants admit that
16 R. Pimental is the Appeals Examiner and Facility Captain for Pelican Bay State
17 Prison, Defendants deny the remaining allegations of said paragraph of the
18 complaint.

19 14. Answering paragraph fourteen of the complaint, answering Defendants have no
20 information or belief upon the facts alleged in the remainder of said paragraph to
21 enable Defendants to answer the allegations and, on that ground deny each and
22 every remaining allegation of said paragraph of the complaint.

23 15. Answering paragraph fifteen of the complaint, answering Defendants have no
24 information or belief upon the facts alleged in said paragraph sufficient to enable
25 Defendants to answer the allegations and, on that ground, denies each and every
26 remaining allegation of said paragraph of the complaint.

27 16. Answering paragraph sixteen of the complaint, answering Defendants have no
28 information or belief upon the facts alleged in said paragraph sufficient to enable

- 1 Defendants to answer the allegations and, on that ground, denies each and every
2 remaining allegation of said paragraph of the complaint.
- 3 17. Answering paragraph seventeen of the complaint, answering Defendants have no
4 information or belief upon the facts alleged in said paragraph sufficient to enable
5 Defendants to answer the allegations and, on that ground, denies each and every
6 remaining allegation of said paragraph of the complaint.
- 7 18. Answering paragraph eighteen of the complaint, answering Defendants have no
8 information or belief upon the facts alleged in said paragraph sufficient to enable
9 Defendants to answer the allegations and, on that ground, denies each and every
10 remaining allegation of said paragraph of the complaint.
- 11 19. Answering paragraph nineteen of the complaint, answering Defendants have no
12 information or belief upon the facts alleged in said paragraph sufficient to enable
13 Defendants to answer the allegations and, on that ground, denies each and every
14 remaining allegation of said paragraph of the complaint.
- 15 20. Answering paragraph twenty of the complaint, answering Defendants have no
16 information or belief upon the facts alleged in said paragraph sufficient to enable
17 Defendants to answer the allegations and, on that ground, denies each and every
18 remaining allegation of said paragraph of the complaint.
- 19 21. Answering paragraph twenty-one of the complaint, Defendants have no
20 information or belief upon the facts alleged in said paragraph sufficient to enable
21 Defendants to answer the allegations and, on that ground, denies each and every
22 remaining allegation of said paragraph of the complaint.
- 23 22. Answering paragraph twenty-two of the complaint, answering Defendants have no
24 information or belief upon the facts alleged in said paragraph sufficient to enable
25 Defendants to answer the allegations and, on that ground, denies each and every
26 remaining allegation of said paragraph of the complaint.
- 27 23. Answering paragraph twenty-three of the complaint, answering Defendants have
28 no information or belief upon the facts alleged in said paragraph sufficient to

- enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
24. Answering paragraph twenty-four of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
25. Answering paragraph twenty-five of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
26. Answering paragraph twenty-six of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
27. Answering paragraph twenty-seven of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
28. Answering paragraph twenty-eight of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
29. Answering paragraph twenty-nine of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
30. Answering paragraph thirty of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to

- enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
31. Answering paragraph thirty-one of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
32. Answering paragraph thirty-two of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
33. Answering paragraph thirty-three of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
34. Answering paragraph thirty-four of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
35. Answering paragraph thirty-five of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
36. Answering paragraph thirty-six of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
37. Answering paragraph thirty-seven of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to

- enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
38. Answering paragraph thirty-eight of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
39. Answering paragraph thirty-nine of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
40. Answering paragraph forty of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
41. Answering paragraph forty-one of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
42. Answering paragraph forty-two of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
43. Answering paragraph forty-three of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.
44. Answering paragraph forty-four of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to

enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.

45. Answering paragraph forty-five of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.

46. Answering paragraph forty-six of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.

47. Answering paragraph forty-seven of the complaint, answering Defendants have no information or belief upon the facts alleged in said paragraph sufficient to enable Defendants to answer the allegations and, on that ground, denies each and every remaining allegation of said paragraph of the complaint.

AS SEPARATE AND AFFIRMATIVE DEFENSES, answering Defendants allege as follows:

AFFIRMATIVE DEFENSE NO. 1.:

At all relevant times, defendant exercised due care and acted only in the execution or enforcement of the law.

AFFIRMATIVE DEFENSE NO. 2.:

The complaint fails to state a cause of action for violation of civil rights, as any deprivation of civil rights alleged in the complaint was not without due process of law.

AFFIRMATIVE DEFENSE NO. 3.:

Answering defendants have not deprived any person of any right, privilege or immunity guaranteed by the Constitution or laws of the United States. There has been no deprivation of any right, privilege or immunity guaranteed by the laws or Constitution of the United States.

AFFIRMATIVE DEFENSE NO. 4.:

1 Insofar as defendants have promulgated any rule or regulation or directive, such
2 promulgation was done within the scope of discretion, in good faith, with due care, and with the
3 intent that such rule or regulation or directive conforms in all respects to the Constitution and
4 laws of the United States.

5 AFFIRMATIVE DEFENSE NO. 7:

6 Answering defendants are entitled to qualified and official immunity. Defendants acted at
7 all times herein relevant in good faith, with due care, within the scope of discretion, and pursuant
8 to laws, regulations, rules, and practices reasonably believed to be in accordance with the
9 Constitution and laws of the United States. There is no liability pursuant to the Federal Civil
10 Rights Act where one acts in good faith and entertains an honest, reasonable belief that one's
11 actions are in accord with the clearly-established law. (*Harlow v. Fitzgerald*, 457 U.S. 800, 818,
12 102 S.Ct. 2727 (1982).)

13 AFFIRMATIVE OFFENSE NO. 8:

14 Answering defendants will be entitled to reasonable attorney fees and costs of suit upon
15 prevailing within the meaning of 42 U.S.C. § 1988.

16

17 WHEREFORE, Defendants pray that:

- 18 1. Judgment be rendered in favor of Defendants and against plaintiff; and
19 2. Plaintiff take nothing by the Complaint; and
20 3. Defendants be awarded costs of suit incurred herein; and
21 4. Defendants be awarded such other and further relief as the Court may deem
22 necessary and proper.

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24 REQUEST FOR JURY TRIAL AND COURT REPORTER

25 Answering defendants respectfully request trial by jury and a court reporter at time of
26 trial.

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1 Dated: June 11, 2008
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EDMUND G. BROWN JR., Attorney General
of the State of California
PAUL T. HAMMERNESS
Supervising Deputy Attorney General

By: _____
KAY K. YU
Attorneys for Defendants Grannis and Pimental

7 Williams Answer.wpd
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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Williams v. Kernan, et al.**
U.S. D.C. Northern Case No.: C 07-5574 MMC (PR)

I, Anh Ho, declare:

I am employed in the County of San Francisco, California. I am 18 years of age or older and not a party to the within entitled cause; my business address is 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102.

On, June 11, 2008. I served the attached:

ANSWER TO THE COMPLAINT; REQUEST FOR JURY TRIAL AND COURT REPORTER

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at San Francisco, California, addressed as follows:

Michael P. Williams
J-67958
Pelican Bay State Prison
P. O. Box 7500 D1-115
Crescent City, CA 95532

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 11, 2008, at San Francisco, California.

Anh Ho

Typed Name



Signature